

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

Case No. 5:18 mj-111 (ATB)

DEREK INDIVERO)

Defendant(s))

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of February 12, 2018 and February 28, 2018 in the county of Onondaga in the Northern District of New York the defendant violated:

Code Section

18 U.S.C. § 2422(b)

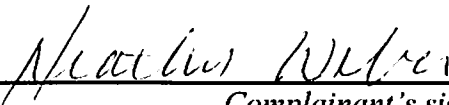
Offense Description

Enticement of a Minor

Attempted Enticement of a Minor

This criminal complaint is based on these facts:
See attached affidavit

☒ Continued on the attached sheet.



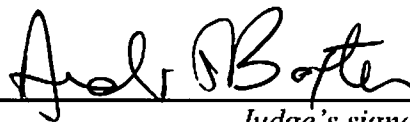
Complainant's signature

Heather Weber, SA FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: March 1, 2018



Judge's signature

City and State: Syracuse, NY

Hon. Andrew T. Baxter, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT OF SA HEATHER L. WEBER

I, Heather L. Weber, being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been so employed by the FBI since September 2014. I am currently assigned to the Albany Division, Albany, New York. I have participated in investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections §2252, §2252A, §2251(e) and §2422(b). I am currently investigating federal violations concerning child pornography and the sexual exploitation of children. I have gained experience regarding such crimes through training in seminars, classes, and everyday work related to conducting these types of investigations.

2. I am an investigative or law enforcement officer of the United States within the meaning of Title 18 United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516(1). As an FBI Special Agent, I am authorized to seek and execute federal arrest and search warrants for Title 18 criminal offenses, including offenses related to the sexual exploitation of minors, specifically those involving the exploitation of a minor for sexual purposes in violation of Title 18, United States Code, Section 2422(b).

3. I make this affidavit in support of a criminal complaint and arrest warrant charging Derek Indivero ("INDIVERO"), with using a facility of interstate commerce to attempt to persuade, induce, entice, and coerce and attempt to persuade, induce, entice and coerce an individual who has not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18 United States Code, Section 2422(b).

4. The statements contained in this affidavit are based upon my investigation, information provided by the New York State Police and other law enforcement officials and on my experience and training as a Special Agent of the FBI. As this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Derek Indivero has violated Title 18, United States Code, Section 2422(b).

Details of the Investigation

5. On February 11, 2018, Victim 1's sister asked Victim 1 (a 12 year old) if she wanted to make money sending "nude" images to Derek Indivero for \$200. Victim 1's sister suggested they could split the money. Victim 1's sister provided Victim 1 Indivero's Snapchat username "Droc_315" so that Victim 1 could communicate with Indivero. Victim 1 used her 15 year old friend's (herein Friend) iPod to begin communicating with Indivero on his Snapchat "Droc_315" account. Indivero responded immediately to Victim #1's communications. Victim 1 clearly identified herself as a 12 years old to Indivero and stated that she is in middle school. Although they were using Friend's iPod to communicate, Indivero believed he was communicating with Victim 1.

6. On February 12, 2018, while Victim 1 was at school, Indivero contacted her Friend through Snapchat requesting "pictures." Victim 1 and Friend interpreted that to mean "nude" pictures. Friend stated they were at school and unable to take pictures. Indivero then asked if Victim 1 and Friend wanted to meet up. During the conversation, Indivero offered to pay \$50 to touch Victim 1. They agreed to meet with Indivero that afternoon in their middle school parking lot. Prior to meeting with Indivero, the girls met with another girl friend who would be available

if they did not return from the meet.

7. On the same date, Indivero met the girls at their middle school. Indivero told them that he was in a BMW and flashed his lights so the girls could locate him. During the meeting, Victim 1 again told Indivero that she was 12 years old. Indivero grabbed Victim 1's right breast and butt. Victim 1 became uncomfortable and created an excuse to leave. Indivero gave her Friend \$49 before the girls got out of the car.¹

8. On February 13, 2018, New York State Police Investigator William Walker interviewed Victim 1 and her Friend. Victim 1 and Friend provided statements and identified a Facebook account for Derek Indivero. Victim 1 and her friend viewed Indivero's publicly available Facebook page and identified him as the man who groped her in the middle school parking lot and paid them \$49 to do so.

9. Investigator Walker was able to obtain surveillance footage from the middle school. Surveillance footage show Victim 1, Friend and another friend hugging in the foyer of the middle school. Additional surveillance footage show the lights of a vehicle in the parking lot in the area at the time the girls describe meeting with Indivero.

10. On February 26, 2018, Snapchat responded to a subpoena from the FBI requesting information for username "Droc_315." Snapchat provided a cell phone number XXX-XXX-5535 and an account login at IP address 67.249.234 as well as other locations on February 12, 2018.

11. FBI Special Agent Heather Weber entered phone number XXX-XXX-5535 into Facebook and observed the Facebook account for Derek Indivero that was identified by Victim 1.

¹ The above-described acts Indivero engaged in with Victim 1 whom he knows is a 12 year old girl, constitutes, among other crimes, the following crime under New York State Penal Law, a violation of Section 130.65(4): Sexual Abuse in the First Degree, which makes it unlawful for a person twenty-one years old or older, to subject another person to sexual contact when the other person is less than thirteen years old.

12. On February 27, 2018, Charter Communications responded to a subpoena with subscriber information for IP address 67.249.234. According to Charter Communications, IP address 67.249.234 is registered to Indivero's address in Syracuse, NY and has been from December 26, 2017 to the present.

13. Records from New York Department of Motor Vehicles (DMV) reflect that a 2015 BMW bearing a NY license plate is registered to Derek Indivero of Syracuse, NY.

14. On February 27, 2018, New York State Police Investigator Todd Grant observed Indivero's BMW at his residence in Syracuse, N.Y.

15. On February 27, 2018, Victim 1 agreed to allow Investigator Todd Grant to assume her Snapchat identity to communicate with Indivero. Victim 1 identified Snapchat vanity name "Fakes Don't Snap," as the vanity name for Snapchat username "Droc315" as belonging to Indivero. Victim 1 knew this because her sister, had previously told her it belonged to Indivero.

16. On February 27, 2018, Investigator Grant assumed Victim 1's identity at approximate 5:41 pm and began communicating with Indivero. Investigator Grant referenced Victim 1 and Indivero's previous sexual encounter by telling Indivero that she did not say anything to her sister regarding what occurred and that Victim 1 would like to bring a different friend during a future encounter. Investigator Grant again references the previous encounter by stating "and no short me a dollar this time!!!" During the course of their exchanges which took place on February 27, 2018 and February 28, 2018, Indivero referenced he and Victim #1's previous meeting and described details of their previous sexual encounter.

17. During the course of the communication, Indivero requested to meet with Victim 1 and offered her \$50 for a "bj." Also during the communication, Indivero sent an image that depicted what appears to be the radio in his car and "Derek's iphone" as being connected via

Bluetooth. Indivero requests images of Victim 1's "boobs" and "butt" and said he would put \$20 in her mailbox for them. Investigator Grant communicated to Indivero that Victim 1 has an 11 year old friend that Victim 1 would like to be present so she is more comfortable. Indivero tells Victim 1 that he will pick the girls up the following day and take them to his house. Indivero also states he would like to rub the 11 year old's "butt" in addition to getting a "bj" in which he wants Victim 1 to swallow. Indivero then agrees to give her \$50 if he can video her giving a "bj", "swallowing" and if she is naked. Indivero tells Victim 1 that if she wants to make money, let him know and to bring her friend.²

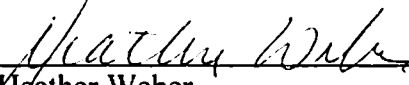
18. Indivero then agreed to meet with Victim 1 and her 11 year old friend on February 28, 2018 at the Dollar General Parking lot in Solvay, New York so that he could commit the above described sex acts and film them in exchange for paying Victim 1 \$50. Later that same day, using Victim 1's snapchat account, Indivero was given a location to meet Victim 1. Indivero requested pictures and videos to prove it was actually Victim 1. Indivero continued to inquire if the 11 year old female would be present at that location with Victim 1. Indivero drove past the location where he believed Victim 1 was and claimed he no longer wanted to do anything but he would still pick her up and pay her. Indivero drove to an apartment complex behind where he believed Victim 1 was located. Indivero told Victim 1 to walk to him from her location. At that point, Indivero was arrested and an iPhone X and cash in excess of \$200 was found on his person. Indivero was transported to the FBI office where he was interviewed post Miranda. During the interview he admitted to discussing via Snapchat video-taping Victim 1 giving him a blow job. Indivero

² The above-described acts Indivero states that he intends to engage in with Victim 1 whom he knows is a 12 year old girl, would constitute, among other crimes, the following crime under New York State Penal Law, a violation of Section 130.45(1): Criminal Sexual Act in the Second Degree, which makes it unlawful for a person eighteen years old or more, to engage in oral sexual conduct or anal sexual conduct with another person less than fifteen years old.

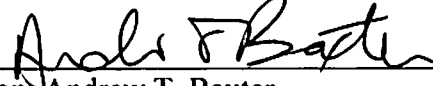
claimed this talk was for masturbation purposes only. Indivero confirmed that he discussed on Snapchat producing child pornography and he admitted he wanted to meet another child today.

Conclusion

19. Based upon the above information, I believe that probable cause exists that Derek Indivero has violated Title 18, United States Code, Section 2422(b), which prohibits any person from using a facility of interstate commerce to persuade, induce, entice, coerce, and attempt to persuade, induce, entice, and coerce an individual who has not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, and request that a criminal complaint and arrest warrant be issued pursuant to this violation of federal law.


Heather Weber
Special Agent
Federal Bureau of Investigation

Sworn to me this 1st
day of March 2018.


Hon. Andrew T. Baxter
U.S. Magistrate Judge